

(including freight, passenger, and commuter) by applicants and other network links (including Class II and Class III rail carriers and ports). Applicants' impact analyses must at least provide the following types of information:

(1) The anticipated effects of the transaction on traffic patterns, market concentrations, and/or transportation alternatives available to the shipping public. Consistent with § 1180.6(b)(10), these would incorporate a detailed examination of any competition-enhancing aspects of the transaction and of the specific measures proposed by applicants to preserve existing levels of competition and essential services;

(2) Actual and projected market shares of originated and terminated traffic by railroad for each major point on the combined system. Applicants may define points as individual stations or as larger areas (such as Bureau of Economic Analysis statistical areas or U.S. Department of Agriculture Crop Reporting Districts) as relevant and indicate the extent of switching access and availability of terminal belt railroads. Applicants should list points where the number of serving railroads would drop from two to one and from three to two, respectively, as a result of the proposed transaction (both before and after applying proposed remedies for competitive harm);

(3) Actual and projected market shares of revenues and traffic volumes for major interregional or corridor flows by major commodity group. Origin/destination areas should be defined at relevant levels of aggregation for the commodity group in question. The data should be broken down by mode and (for the railroad portion) by single-line and interline routings (showing gateways used);

(4) For each major commodity group, an analysis of traffic flows indicating patterns of geographic competition or product competition across different railroad systems, showing actual and projected revenues and traffic volumes;

(5) Maps and other graphic displays where helpful in illustrating the analyses in this section;

(6) An explicit delineation of the projected impacts of the transaction on the ability of various network links (including Class II and Class III rail

carriers and ports) to participate in the competitive process and to sustain essential services; and

(7) Supporting data for the analyses in this section, such as the basis for projections of changes in traffic patterns, including shipper surveys and econometric or other statistical analyses. If not made part of the application, applicants shall make these data available in a repository for inspection by other parties or otherwise supply these data on request, for example, electronically. Access to confidential information will be subject to protective order. For information drawn from publicly available published sources, detailed citations will suffice.

(8) If necessary, an explanation as to how the lack of reliable and consistent data has limited applicants' ability to satisfy any of the requirements in this paragraph (b).

(c) For *significant* transactions, specific regulations on impact analyses are not provided so that the parties will have the greatest leeway to develop the best evidence on the impacts of each individual transaction. As a general guideline, applicants shall provide supporting data that may (but need not) include: current and projected traffic flows; data underlying sales forecasts or marketing goals; interchange data; market share analysis; and/or shipper surveys. *It is important to note that these types of studies are neither limiting nor all-inclusive.* The parties must provide supporting data, but are free to choose the type(s) and format. If not made part of the application, applicants shall make these data available in a repository for inspection by other parties or otherwise supply these data on request, for example, electronically. Access to confidential information will be subject to protective order. For information drawn from publicly available published sources, detailed citations will suffice.

[66 FR 32588, June 15, 2001]

§ 1180.8 Operational data.

(a) Applications for *major* transactions must include a full-system operating plan—incorporating any prospective operations in Canada and Mexico—from which they must demonstrate how the proposed transaction

would affect operations within regions of the United States and on a nationwide basis. As part of the environmental review process, applicants shall submit:

(1) A Safety Integration Plan, prepared in consultation with the Federal Railroad Administration, to ensure that safe operations would be maintained throughout the merger implementation process.

(2) Information on what measures they plan to take to address potentially blocked crossings as a result of merger-related changes in operations or increases in rail traffic.

(b) For *major* and *significant* transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a *pro forma* density chart.

(2) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.

(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes;

and how these will lead to the financial and service benefits described in the summary.

(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction.

(5) Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.

(c) For *minor* transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

(1) Traffic level density on lines proposed for joint operations.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(3) Operating economies, which include, but are not limited to, estimated savings.

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(4) Any anticipated discontinuances or abandonments.

[47 FR 9844, Mar. 8, 1982. Redesignated at 47 FR 49592, Nov. 1, 1982, as amended at 66 FR 32589, June 15, 2001]

§ 1180.9 Financial information.

The following information shall be provided for *major* transactions, and for carriers shall conform to the Board's Uniform System of Accounts, 49 CFR part 1201:

(a) *Pro forma* balance sheet (exhibit 16). Where the transaction involves a proceeding other than a control, a *pro forma* balance sheet statement giving effect to the proposed transaction commencing for the first year of the Impact Analysis in exhibit 12. The data shall be presented in columnar form showing:

(1) In the *first* column, the balance sheet of transferee on a corporate entity basis,

(2) In the *second* column, a balance sheet of transferor, on a corporate entity basis,

(3) In the *third* column, *pro forma* adjustments and eliminations; and

(4) In the *fourth* column, transferee's balance sheet giving effect to consummation of the proposed transaction.⁴

Each adjustment and elimination shall be properly footnoted and fully explained. A *pro forma* balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.

⁴Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual balance sheet on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* is a compilation of the first two columns into a *pro forma* balance sheet.

The transferor shall file a balance sheet similar to the one filed by the transferee, with the *second* column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar balance sheet shall be filed for each.

All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

(b) *Pro forma* income statement (exhibit 17). Where the transaction involves a proceeding other than a control, submit a *pro forma* income statement showing transferee's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation of the transaction.⁵ The *pro forma* data shall be presented in columnar form, showing

(1) in the first column, transferee's actual income statement on a corporate entity basis for the year indicated in the impact analysis in exhibit 12;

(2) in the *second* column, a similar income statement for the transferor;

(3) in the *third* column, forecasted adjustments to the combined revenues, expenses, and net income to reflect increases or decreases anticipated under the unified operations, and

(4) in the fourth column, a compilation of the first three columns into a *pro forma* income statement.⁶

The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the *third* column. Additionally, if the major financial advantages to be derived from the proposed transaction will not occur within 3 years after consummation, then applicant shall furnish additional information to reflect the number of years

⁵If the operating plan requires more than 3 years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

⁶Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustment necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the second column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferor or transferee is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statements.